HOUSE DOCKET, NO. 2260 FILED ON: 1/20/2011

HOUSE . . . . . No. 2329

The Commonwealth of Massachusetts

PRESENTED BY:

Harold P. Naughton, Jr.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relative to vacant and abandoned property in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Harold P. Naughton, Jr.	*12th Worcester*

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HOUSE . . . . . No. 2329

By Mr. Naughton of Clinton, a petition (accompanied by bill, House, No. 2329) of Harold P. Naughton, Jr., for legislation to authorize municipalities to implement an abandoned property registration and security program. Municipalities and Regional Government.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to vacant and abandoned property in the Commonwealth.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 255 of the General Laws is hereby amended by inserting after section 12 the following new section-

Section 13.

(a) For purposes of this section, the following terms shall have the following meanings unless the context clearly requires otherwise:

"Abandoned", any structure or building that is not legally occupied for a period of 60 days or has visible signs of physical distress, including boarded windows, fire damage, exposure to the elements, susceptibility to unauthorized entry or where mortgage or property tax payments are delinquent for 60 days.

"Commissioner", the municipality's building inspector or commissioner or other administrative chief in a town responsible under M.G.L. c. 134 § 3 for administering and enforcing the state building code.

"Days", consecutive calendar days.

"Conclusion of the foreclosure process", means the date at which a mortgage foreclosure process is finalized as evidenced by the filing of a foreclosure deed with the Registry of Deeds

"Owner", every person, entity, association, corporation, fiduciary, service company, property manager or realtor who alone or severally has legal or equitable title or any interest in any real property or is a trustee or agent appointed by the courts or is a mortgagee in possession.

19 “Residential Property”, any property that contains one or more dwelling units used,
20 intended, or designed to be occupied for living purposes.

21 (b) Any city or town which accepts the provisions of this section may impose an
22 abandoned property registration and security program as provided in this chapter. All owners
23 must register abandoned and/or foreclosed residential properties with Commissioner on forms
24 provided by the Commissioner. All registrations must state the individual owner or agent’s
25 phone number and mailing address. This registration must also certify that the property was
26 inspected and identify whether the property is abandoned. If the property is abandoned, the
27 registration must designate a local individual or local property management company responsible
28 for the security and maintenance of the property. This designation must state the individual or
29 company’s name, phone number and local mailing address. This registration must be received
30 within sixty days of abandonment or within sixty days of the conclusion of the foreclosure
31 process.

32 All property registrations are valid for one year. An annual registration fee, not to exceed
33 one-hundred dollars and no cents ($100.00) must accompany the registration form. The fee and
34 registration are valid for the calendar year, or remaining portion of the calendar year in which the
35 registration was initially required. Subsequent registrations and fees are due by the first (1st) day
36 of January of each year and must certify whether the foreclosed property remains abandoned.

37 Once the property is sold or is no longer abandoned, the owner must provide proof of sale
38 or written notice of occupancy to the Commissioner.

39 (c) Properties subject to this section must be maintained in accordance with all applicable
40 Sanitary, Building Codes, and local regulations. The local owner or local property management
41 company must inspect and maintain in the property on a monthly basis for the duration of the
42 abandonment.

43 (d)The property must contain a posting with the name and twenty-four (24) hour contact
44 phone number of the local individual or property management company responsible for the
45 maintenance. The sign must also indicate the name, address and telephone number of the
46 property owner and the owner’s authorized agent for the purpose of service of process. This sign
47 must be posted on the front of the property so it is clearly visible from the street.

48 Compliance with this section shall not relieve the property owner of any other obligation
49 set forth in statute, regulation, covenant conditions and restrictions and/or homeowners’
50 association rules and regulations.

51 (e) Where a building is vacant, unguarded, and open to unauthorized entry, all building
52 openings must be closed, secured and protected as follows:

(1) For the first six (6) months a building is vacant, all building openings shall be closed and secured to prevent entry by unauthorized persons in a manner not inconsistent with rules and regulations issued by the commissioner for securing vacant buildings;

(A) Openings more than one (1) square foot in area shall be secured using secure doors, glazed windows, plywood, commercial-quality steel security panels, or filled with like-kind material as the surrounding wall;

(B) Openings less than one (1) square foot in area may be boarded with plywood, provided that the boarding is made weather tight and finished with varnish, or paint of a similar color to the exterior wall and cut to the inside dimension of the exterior of the opening, and otherwise secured;

(2) For a building that has been vacant for more than six (6) months or that is determined by the commissioner to be chronically or habitually violated or upon any renewal of the registration statement required by this section, the property owner must implement and provide proof satisfactory to the commissioner that, in addition to complying with the security standards set forth elsewhere in this chapter, said building either: (i) contains all of the security features set forth in subparagraph (A) below, or (ii) is unviolated, as described in subparagraph (B) below:

(A) Every opening larger than one (1) square foot in area that is located less than eight feet above the ground or that is accessible from ground level or within eight feet in any direction of an exterior stairway, fire escape, or other means of access shall be closed and secured with a commercial-quality, 14-gauge, rust-proof steel security panel or door:

(i) security panels and doors shall have an exterior finish that allows for easy graffiti removal; and

(ii) security panels and doors shall be secured from the interior of the building to prevent unauthorized removal.

(B) For purposes of this section, the term “unviolated” shall refer to a building: (i) that has a permanent door or window, as applicable, in each appropriate building opening and that has each such door or window secured to prevent unauthorized entry and (ii) that has all its door and window components, including without limitation frames, jambs, rails, stiles, muntins, mullions, panels, sashes, lights and panes, intact and unbroken. A building that does not meet the definition of “unviolated” shall be deemed “violated”.

(C) It shall be a violation of this section for a vacant building to become violated, if the owner has otherwise represented proof to the commissioner that such building is unviolated. With respect to a vacant building represented by the owner as unviolated, if the commissioner determines, based on an inspection or a report prepared by another municipal agency and

88 provided to the commissioner that such building is violated, the commissioner shall send by
89 certified mail a written notice of violation to the person responsible for day-to-day supervision
90 and management of the building or to the authorized agent for service of process as identified on
91 the sign required by subsection (c) of this section , or if there is no such sign, then sent by
92 certified mail to the owner of record. Within 30 days of the mailing of such notice of violation,
93 the owner shall be required to comply with the provisions of this section.

94 (f) The Commissioner shall have the authority and the duty to inspect properties subject
95 to this section for compliance and to issue citations for any violations. The Commissioner shall
96 have the discretion to determine when and how such inspections are to be made, provided that
97 their policies are reasonably calculated to ensure the enforcement of this section.

98 (g) Failure to initially register with the Commissioner is punishable by a fine, not to
99 exceed of five hundred dollars and no cents ($500.00).

100 If applicable, failure to properly identify the name of the local individual or property
101 management company is punishable by a fine, not to exceed five hundred dollars and no cents
102 ($500.00).

103 Failure to maintain the property is punishable by a fine, not to exceed hundred dollars and
104 no cents ($500.00) for each month the property remains out of compliance or is otherwise not
105 maintained.

106 Violations of this chapter shall be treated as a strict liability offence regardless of intent.

107 This section shall only take effect in a city or town accepting the provisions of this
108 section by a majority vote of the city council with the approval of the mayor, in the case of a city
109 with a Plan A, Plan B, or Plan F charter, by a majority vote of the city council, in the case of a
110 city with a Plan C, Plan D, or Plan E charter, by a majority vote of the annual town meeting or a
111 special meeting called for that purpose, in the called-for purpose, in the case of a municipality
112 with a town meeting form of government; or by a majority of the town council, in the case of a
113 municipality with a town form of government. The provisions of this section shall take effect on
114 the first day of the first calendar month following days after such acceptance; provided further
115 that if such day is at least 15 days after such acceptance; and provided further, that if such day is
116 less that 15 days after such acceptance, it shall take effect on the first day of the second calendar
117 month following such acceptance.

118 SECTION 2. This act shall take effect upon its passage.